

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

NICHOLAS BARNARD,

Plaintiff,

v.

COLUMBIA DEBT RECOVERY, LLC, dba
GENESIS CREDIT MANAGEMENT, LLC,

Defendant.

CASE NO. 2:20-cv-00812 JCC

DEFENDANT'S ANSWER AND
AFFIRMATIVE DEFENSES TO
COMPLAINT AND
COUNTERCLAIM

Comes now Defendant, Columbia Debt Recovery LLC, dba Genesis, and for
Answer to the Plaintiff's Complaint, alleges and states as follows:

I. PARTIES AND JURISDICTION

1. Defendant admits the allegations in Paragraph 1 of the complaint.

2. Defendant admits that it is a Washington Limited Liability Company and a
licensed Washington State Collection Agency, doing business at 906 SE Everett Mall
Way, Suite 301, Everett Washington 98208.

3. Defendant admits that jurisdiction and venue over this matter is proper.

DEFENDANT'S ANSWER,
AFFIRMATIVE DEFENSES
AND COUNTERCLAIM -1
4002782

MARK T. CASE, WSBA 38589
P.O. BOX 30131
SPOKANE, WA 99223
TEL: (425) 890-2817
markcaselaw@gmail.com

II. FACTS

4. Defendant admits the allegations in Paragraphs 4 and 5.

5. Defendant does not have sufficient information to form an opinion of the truth of the allegations in paragraph 6 and therefore denies them.

6. Defendant admits that Exhibit A is a true and correct copy of the Final Account Statement, Revised and that the document speaks for itself. Defendant does not have sufficient information to form an opinion of the truth of the remaining allegations in Paragraphs 7 through 11 and therefore denies them.

7. Defendant denies that Plaintiff cleaned and repaired the premises or that the premises were not damaged beyond normal wear and tear. Defendant does not have sufficient information to form an opinion of the truth of the remaining allegations in Paragraph 12 and therefore denies them.

8. Defendant admits that it sent the letter attached as Exhibit C to the complaint and denies the remaining allegations in Paragraph 13.

9. Defendant admits that it sent the email attached as Exhibit D as alleged in Paragraphs 14 and 15.

10. Defendant admits that it sent the email attached as Exhibit E as alleged in Paragraph 16.

11. Defendant does not have sufficient information to form an opinion of the truth of the allegations in paragraph 17 and therefore deny them.

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1 12. Defendant admits that Plaintiff called it on March 26, 2020 but denies the
2 remaining allegations in Paragraph 18.

3 13. Defendant admits that Plaintiff would owe less had he complied with the
4 terms of the written lease and denies the remaining allegations in Paragraph 19.

5 14. Defendant denies the allegations in Paragraphs 20, 21 and 22.

6 15. Defendant admits that Plaintiff owed additional interest but denies the
7 remaining allegations in Paragraphs 23 and 24.

8 16. Defendant admits that it sent the emails attached as Exhibits F and G. The
9 Exhibits speak for themselves. The remaining in Paragraphs 25 and 26 are denied.

10 17. Defendant denies the allegations in paragraphs 27 and 28.

11
12
13 **III. CAUSES OF ACTION**

14 18. Paragraphs 29 to 32 contain no factual allegations or content which
15 Defendant can admit or deny. The statutes speak for themselves and Defendant denies
16 having violated such statutes.

17 19. Defendant denies the allegations in Paragraphs 33 and 34.

18 20. Paragraphs 35 and 36 contain no factual allegations or content which
19 Defendant can admit or deny. The statute cited speaks for itself and Defendant denies
20 having violated such statute.

21 21. Defendant denies the allegations in Paragraph 37.

22 22. Paragraphs 38 to 41 contain no factual allegations or content which
23 Defendant can admit or deny. The statutes cited speaks for themself and Defendant denies
24
25

DEFENDANT'S ANSWER,
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1 having violated such statute.

2 23. Defendant denies the allegations in Paragraphs 42 through 44.

3 24. Paragraph 45 contains no factual allegations or content which Defendant
4 can admit or deny. The statute cited speaks for itself and Defendant denies having violated
5 such statute.
6

7 25. Defendant denies the allegations in Paragraphs 45 through 48.

8 26. Paragraph 49 contains no factual allegations or content which Defendant
9 can admit or deny. The statute cited speaks for itself and Defendant denies having violated
10 such statute.
11

12 27. Paragraph 50 contains no factual allegations or content which Defendant
13 can admit or deny. Defendant denies having violated any state or committed any
14 wrongdoing.
15

16 28. Defendant denies the allegations in Paragraphs 51 through 54 and each and
17 every other allegation not expressly admitted.

18 **IV. AFFIRMATIVE DEFENSES**

19 Defendant realleges its forgoing Answer and by way of Affirmative Defenses,
20 states:

21 29. Plaintiff's claims fails to state factual matter sufficient to constitute a claim
22 against the Defendant and fails to state facts upon which relief can be granted.
23

24 30. Plaintiff lacks standing to pursue the claims in the Complaint because he
25 has not suffered any concrete harm.

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1 31. Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver,
2 estoppel and/or laches.

3
4 32. Any alleged misrepresentation, failure or wrongful conduct by Defendant
5 was not material and, hence, not actionable under *Donahue v. Quick Collect, Inc.* 592F.
6 3d 1027 (9th Cir. 2010).

7
8 33. Plaintiff has an adequate remedy at law and is not entitled to injunctive
9 relief.

10 34. Defendant acted in good faith at all times and in reliance on federal, state
11 and local statutes, regulations and rules.

12
13 35. Plaintiff's claims are barred by his own conduct which were the direct and
14 proximate cause of any loss he suffered.

15
16 36. Plaintiff breached the underlying lease giving rise to the debt at issue. Any
17 violation and/or damages resulted from the fault and wrong doing of Plaintiff or of others
18 for whom Defendant is not responsible or liable.

19
20 37. Any alleged violation of statute was technical, non-material and/or de
21 minimis in nature and, therefore, does not support a finding of liability or an award of
22 damages or attorney's fees.

23
24 38. To the extent Plaintiff is able to prove a violation of the FDCPA, any such
25

DEFENDANT'S ANSWER,
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1 any such violation was unintentional, clerical and resulted from a bona fide error
2 notwithstanding the maintenance of procedures reasonably adapted to avoid any such
3 error.
4

5 39. Plaintiff failed to mitigate his damages.

6 40. The allegations contained in the Complaint are without evidentiary support,
7 are unwarranted by the facts of the case and are brought in bad faith and for the purpose
8 of harassing Defendant.
9

10 VI. COUNTERCLAIM

11
12 Defendant, Columbia Debt Recovery LLC, dba Genesis, realleges its forgoing
13 Answer and Affirmative Defenses and for Counterclaim states:

14 41. The cause of action herein has been assigned to Defendant for collection.

15
16 42. The Defendant is a licensed and bonded collection agency incorporated
17 under the laws of the State of Washington and is the assignee of the claim sued upon
18 herein.

19 43. Plaintiff is believed to be a resident of King County Washington.

20 44. The Court has jurisdiction over this matter.

21
22 45. On or about June 1, 2017, Plaintiff entered into a real property lease with
23 Defendant's assignor, of an apartment known as ClockTower Apartments, located at
24 13725 32nd Ave. NE, No. B321, Seattle, Washington 98125. The term of the lease was
25 from June 1, 2017 to March 31, 2018. Among other lease provisions, Plaintiff agreed to:

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1 (1) pay monthly rent and utilities, and an early termination fee of \$2,790 in the event he
2 vacated the apartment prior to March 31, 2018 without paying rent to that date; (2) give
3 written notice of his intention to move out at least 20 days prior to the end of the monthly
4 rental period; (3) maintain the property in a clean and safe condition; and (4) upon
5 vacation of the apartment, thoroughly clean it and restore it to as good a condition as he
6 found it, save normal wear and tear.

8 46. Plaintiff breached the lease terms. In particular, he vacated with apartment
9 on January 31, 2018 without giving 20 days written notice or paying the rent for February
10 2018, failed to pay utilities and the early termination fee, and failed to clean the apartment
11 or restore it to its original condition.

13 47. Plaintiff further willfully, intentionally and maliciously damaged the
14 apartment, by leaving profane graffiti, pet waste, urine-soaked carpet, and filth throughout
15 the apartment. Defendant's assignor was required to expend funds to clean and repair the
16 damage and remove filth, waste, discarded personal belongings and trash.

18 48. As a result of the breach and damage caused by Plaintiff, he is indebted to
19 Defendant in the sum of \$5,636.85 together with attorney's fees, court costs and interest at
20 the rate of 12% per annum as provided in paragraph 32 of the lease.

21 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Defendant prays for the following relief:

- 24 1. That the Complaint be dismissed with prejudice;

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1 2. That Defendant be awarded its attorney's fees, costs and disbursements for
2 defending this action;

3 3. That judgment be entered against Plaintiff in the principal sum of \$5,636.85
4 plus interest, reasonable attorney fees and court costs;

5 3. That Defendant be awarded such other and further relief as the Court finds
6 just and equitable.

7 Respectfully submitted this 17th day of June, 2020.

8
9
10
11 /s/ Mark Case
12 MARK T. CASE, WSBA 38589
13 ATTORNEY FOR COLUMBIA DEBT RECOVERY LLC
14 P.O. BOX 30131
15 SPOKANE, WA 99223
16 TEL: (425) 890-2817
17 Markcaselaw@gmail

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DEFENDANT'S ANSWER,
AFFIRMATIVE DEFENSES
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CERTIFICATE OF SERVICE

I certify under penalty of perjury of the laws of the State of Washington that on the date set forth below, I caused to be served true and correct copies of the forgoing to the parties listed below:

Name and Address of Party Served	Method of Service:						
T. Tyler Santiago, WSBA #46004 Anderson Santiago 787 Maynard Ave. S Seattle, WA. 98104 206-395-2665 Email: tyler@alkc.net Jason Anderson, WSBA #38014 Anderson Santiago 787 Maynard Ave. S Seattle, WA. 98104 206-395-2665 Email: jason@alkc.net Attorneys for Plaintiff <i>Attorneys for Plaintiffs</i>	<table><tr><td>Personal Service</td></tr><tr><td>First Class US Mail</td></tr><tr><td>Certified Mail</td></tr><tr><td>X Electronic Mail</td></tr><tr><td>Facsimile</td></tr><tr><td>Legal Messenger</td></tr></table>	Personal Service	First Class US Mail	Certified Mail	X Electronic Mail	Facsimile	Legal Messenger
Personal Service							
First Class US Mail							
Certified Mail							
X Electronic Mail							
Facsimile							
Legal Messenger							

Dated in Everett this 17th day of June, 2020.

/s/ Mark Case
Declarant

DEFENDANT'S ANSWER,
AFFIRMATIVE DEFENSES
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